THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 35509 of 1998

O r d e r:

Assailing the award dated 02.11.1988, passed by the Labour Court, Visakhapatnam, in I.D. No. 48 of 1988, published in G.O. Rt. No. 756, dated 01.12.1988, the petitioner filed the present writ petition.

The petitioner was appointed as Conductor in the 2nd respondent-APSRTC on 16.01.1979. On 27.02.1983, while the petitioner was conducting the bus on the route Collector's Office – Dibbapalem, a check was exercised, and the checking officials having found certain cash and ticket irregularities, issued charge memo to the petitioner. The petitioner submitted his explanation to the charge memo. Dissatisfied with the explanation, the 2nd respondent-APSRTC placed the petitioner under suspension, and a charge sheet was issued. The Enquiry Officer, who conducted enquiry into the charges leveled against the petitioner, submitted his report holding that the charges are proved. Based on the enquiry report, the 2nd respondent, namely the Depot Manager issued notice to the petitioner, calling upon him to show cause as to why he should not be removed from service. The petitioner submitted his explanation thereto. However, vide proceedings dated 25.02.1984, the 2nd respondent removed the petitioner from service. Assailing the order of removal, the petitioner preferred appeal and review before the appellate and review authorities, which were rejected. Thereafter, he raised an industrial dispute in I.D. No. 48 of 1988 before the Labour Court, which by award dated 02.11.1988, published in G.O. Rt. No. 756, dated 01.12.1988, dismissed the same, upholding the orders of

the disciplinary authority. Assailing the said award and notification, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that the petitioner did not commit any cash and ticket irregularities, and since the bus was overloaded, the petitioner could not collect fare from 11 lady passengers, and one stranger, working in Hindusthan Shipyard as casual labour, posing himself as Conductor collected ticket fare from the passengers. He further submits that the Labour Court without properly appreciating the statements of the passengers erred in confirming the order passed by the disciplinary authority, and at any rate, he contended that the punishment of removal from service imposed on the petitioner is disproportionate to the proved charges. He thus prayed that the impugned order be set aside and the petitioner be reinstated into service with full backwages.

The learned Standing Counsel for respondent No.2-APSRTC reiterating the stand taken in the counter-affidavit submitted that the petitioner allowed as many as 51 passengers to travel in the bus without issuing tickets and committed serious cash and ticket irregularities, and the charges leveled against the petitioner were held proved by the Enquiry Officer in the departmental enquiry, and based on the enquiry report, the disciplinary authority imposed punishment of removal from service on the petitioner, which was confirmed by the Labour Court. Having regard to the nature of the proved charges, the punishment of removal from service, cannot be said to be disproportionate, warranting interference therewith by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. He thus prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner, and the learned Standing Counsel for respondent No.2-APSRTC.

The parameters and scope of judicial review of this Court under

Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are base on suspicion, conjectures or surmises or no reason. It is within these parameters, the award of the Labour Court has to be examined.

The petitioner, as can be seen from the award of the Labour Court, does not dispute the validity of the domestic enquiry proceedings. The petitioner was charge sheeted alleging that he having collected requisite fare from 11 lady passengers failed to issue tickets to them, and he failed to collect fare and issue tickets to about 40 passengers, who boarded the bus at different stages, and he also failed to close the tray numbers of all denominations against stage Nos. 7 to 2 and failed to observe the TIC point at Godduvanipalem i.e., stage No. 7/6. The charges leveled against the petitioner, stood proved in the departmental enquiry. The disciplinary authority, considering the nature of the proved charges, imposed punishment of removal from service. The Labour Court, upon analyzing the evidence before it, and considering the spot explanation of the petitioner, wherein he admitted the irregularities, disbelieved his version that since the bus was overloaded, he could not collect the fare and issue tickets to 11 lady passengers, and that one stranger, who was working as Labour in Hindusthan Shipyard, posing himself as Conductor has collected ticket fare from the passengers, and having found that the petitioner intentionally committed serious cash and ticket irregularities, held that the punishment of removal from service imposed by the disciplinary authority is proportionate to the proved charges. The findings arrived at by the Labour Court being based on proper appreciation of the evidence on record, I see no reason whatsoever to

interfere therewith, more so when the charges leveled against the petitioner stood proved in the departmental enquiry and the petitioner also failed to point out any infirmities in the conduct of the departmental enquiry.

In **Divisional Controller, KSRTC (NWKRTC) v. A.T. Mane**[1], the apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal. On the question of quantum of punishment, the apex Court held as follows:

> Coming to the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration.

In the instant case, the charges leveled against the petitioner stood proved, and having regard to the gravity and seriousness of the proved charges, the 2nd respondent-Depot Manager having lost confidence in the petitioner, removed him from service. In such circumstances, I am of the considered opinion that no interference is called for with the impugned award passed by the Labour Court, which upheld the punishment of removal from service imposed on the petitioner by the disciplinary authority, as confirmed by the appellate and review authorities.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 30th November, 2006.
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[1] (2005) 3 SCC 254